

**COMMONWEALTH OF VIRGINIA  
WASTE MANAGEMENT BOARD  
CONSENT ORDER  
ISSUED TO THE  
COMMUNICATIONS CORPORATION OF AMERICA  
VAD064882426**

**Section A: Purpose**

This is a Consent Order issued under the authority of §10.1-1182 *et seq.* and §§ 10.1-1402, 10.1-1405, and 10.1-1455 of the Code of Virginia (1950), as amended, by the Virginia Waste Management Board to the Communications Corporation of America to resolve certain violations of environmental laws and regulations.

**Section B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. “Code” means the Code of Virginia (1950), as amended.
2. “Board” means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “CCA” means the Communications Corporation of America certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

6. “Order” means this document, also known as a consent order.
7. “Regulations” means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* The Regulations at 9 VAC 20-60-124, 260-266, -268, -270, -273 and -279 adopt by reference certain provisions of Title 40 of the Code of Federal Regulations (“CFR”) Citations herein will be to the relevant section of the CFR which are incorporated by reference into the Regulations.

### **Section C: Findings of Fact and Conclusions of Law**

1. CCA is a direct mail printing operation located in Boston, Virginia. Hazardous wastes generated at CCA and their EPA hazardous waste codes include waste fixer and developer (D011) and fluorescent tubes (D009). As defined in the Regulations, CCA is a small quantity generator of hazardous waste. CCA’s EPA ID number is VAD064882426.
2. On August 7, 2002, DEQ staff conducted an inspection at CCA. Inspection results indicated that used fluorescent tubes were managed as solid waste without a waste determination having been made; past on-site storage of waste fixer and developer had exceeded regulatory time limits; and a drum warmer was used for unpermitted, on-site treatment of solid waste. In addition, some containers of waste fixer and developer were inaccessible due to inadequate aisle space; storage drums of waste fixer and developer were improperly labeled or dated, or both, and some drums were not closed; storage drums were not consigned to a designated area and were not inspected weekly. At the time of the inspection, CCA could not provide documentation demonstrating that employees had been trained in waste handling and emergency procedures, documentation provided by CCA indicated that waste fixer and developer had been shipped off-site by an unpermitted transporter with no EPA ID Number on January 3, 2001; a completed copy of one manifest was missing, and copies of Land Disposal Restriction (LDR) notifications for two manifests were also missing. In subsequent conversations related to the inspection, CCA indicated to DEQ staff that CCA had disposed of ten 55-gallon drums of waste fixer and developer at a solid waste management facility without having made a waste determination. As a result of the inspection, the Department issued a Notice of Violation (“NOV”) to CCA dated September 12, 2002. Specific violations of the Regulations alleged in the NOV include the following:
  - a. Failure to determine whether used fluorescent tubes were hazardous pursuant to 40 CFR 262.11 or to manage the used tubes as universal waste pursuant to 40 CFR 273;
  - b. Failure to determine whether waste fixer and developer generated on-site from the facility’s printing operation was hazardous waste in violation of 40 CFR 262.11;
  - c. Unpermitted treatment of solid and hazardous waste in violation of 9 VAC 20-80-90 and 40 CFR 270.1 and treatment was not in accordance with treatment standards outlined in

40 CFR 268.40;

- d. Failure to limit on-site accumulation and storage of hazardous waste to 180 days or less or 270 days or less as applicable in violation of 40 CFR 264.34(d) and (e) and failure to demonstrate that hazardous wastes stored for more than one year were stored for the purpose of accumulating sufficient quantities as necessary to facilitate proper recovery, treatment, or disposal pursuant to 40 CFR 268.50;
  - e. Failure to maintain adequate aisle space in order to allow the unobstructed movement of personnel in an emergency in violation of 40 CFR 265.35, failure to properly date and label some drums of hazardous waste in violation of 40 CFR 262.34, failure to keep all stored containers of hazardous waste closed in violation of 40 CFR 265.173(a) and failure to demonstrate at the time of the inspection that all employees had been trained on proper waste handling and emergency procedures in violation of 40 CFR 262.34(d)(5)(iii);
  - f. Failure to secure a permitted transporter with an EPA ID Number to transport a shipment of hazardous waste off-site for treatment and disposal in violation of 40 CFR 262.20(a) and Appendix A; and
  - g. Failure to maintain copies of LDR notifications for manifest numbers IL9639190 and IL8801899 in violation of 40 CFR 268.7.
3. In a letter dated September 24, 2002, CCA responded to the September 12, 2002 NOV. In its response, CCA provided additional information to DEQ regarding disposal of the 10 55-gallon drums of waste fixer and developer and outlined corrective actions taken pursuant to inspection results and the NOV. Corrective actions included managing fluorescent tubes as universal waste; designating an area for hazardous waste storage and providing for unobstructed movement around the designated area as well as conducting weekly inspections; properly labeling and dating all containers of hazardous waste and ensuring that the containers are closed; providing for training employees in waste handling and emergency procedures; and locating copies of missing manifests and LDR notifications. In addition, CCA affirmed that it had taken the drum warmer off-line at the time of the August 7, 2002 inspection.
4. On October 30, 2002, DEQ staff met with CCA staff and conducted a Compliance Schedule Evaluation inspection. At that time, DEQ staff verified that CCA had corrected, where possible, the deficiencies identified during the August 7, 2002 inspection and listed above in paragraph two, items a and e through g. In a letter dated November 1, 2002, CCA asserted that the drum warmer was not used to evaporate waste fixer and developer. For purposes of ensuring CCA's future compliance with the Regulations, Appendix A of this Order requires that CCA submit to DEQ for review and approval a plan for identifying and managing hazardous waste and a plan for training employees in proper waste handling and emergency procedures.

5. Also as a result of the August 7, 2002 inspection, DEQ issued an NOV on September 23, 2002, alleging two violations of the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution. Specific violations alleged in the NOV include failure to seal a container of solvent-soaked rags and construction and operation of a drum warmer evaporation unit without a permit. By letter dated October 1, 2002, CCA identified corrective measures taken to address these outstanding compliance issues. During the October 30, 2002, informal inspection, DEQ staff verified that CCA had taken appropriate corrective measures and resolved the deficiencies identified in the NOV.

#### **Section D: Agreement and Order**

Accordingly, the Board, by virtue of the authority of Code §10.1-1182 *et seq.* and §§ 10.1-1402, 10.1-1405, and 10.1-1455, orders CCA, and CCA agrees, to:

- (1) Comply with the terms of Appendix A of this Order; and
- (2) Pay a civil charge of \$10,100 within 30 days of the effective date of this Order. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, VA 23240

Either on a transmittal letter or as a notation on the check, CCA shall: 1) indicate that the check is submitted pursuant to this Order, and 2) include its Federal Identification Number.

#### **Section E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of the CCA, for good cause shown by the CCA on its own motion after notice and opportunity to be heard.
2. This Order addresses only those violations pertaining to the facility specifically identified herein, including those matters identified in the Notice of Violation issued to CCA by DEQ on September 12, 2002. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the terms of this Order. This Order shall not preclude appropriate enforcement actions by other

federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, CCA admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. CCA consents to venue in the Circuit Court of Virginia of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. CCA declares that it has received fair and due process under the Administrative Process Act, Code § 2.2-4000 *et seq.*, and the Virginia Waste Management Act, Code § 10.1-1400 *et seq.*, and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding, or to judicial review of, any action taken by the Board or the Director to enforce this Order.
6. Failure by CCA to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. CCA shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, or other act of God, war, strike, or other such occurrences. CCA must show that the circumstances resulting in the noncompliance were beyond its control and were not due to a lack of good faith or diligence on its part. CCA shall notify the Director of the DEQ Northern Virginia Regional Office in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director of the DEQ's Northern Virginia Regional Office within 24

hours of the commencement of the condition causing or anticipated to cause the delay or noncompliance shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director of the Department of Environmental Quality or his designee and CCA. Notwithstanding the foregoing, CCA agrees to be bound by any compliance date that precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to CCA. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve the CCA from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By the signature of an authorized official below, CCA voluntarily agrees to the issuance of this Order.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

\_\_\_\_\_  
Date

Seen and Agreed to: \_\_\_\_\_  
CCA

The foregoing instrument was acknowledged before me on \_\_\_\_\_

by \_\_\_\_\_, \_\_\_\_\_, on behalf of CCA,  
(name) (title)

in the County/City of \_\_\_\_\_, Commonwealth of Virginia.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

Notary Public

My Commission expires: \_\_\_\_\_

**APPENDIX A**  
**SCHEDULE OF COMPLIANCE**

CCA shall:

1. By May 1, 2003, submit to DEQ for review and approval a Hazardous Waste Determination and Management Plan to include, at a minimum, a plan for identifying and managing hazardous waste generated at the CCA in accordance with the Regulations; and
2. By May 1, 2003, submit to DEQ for review and approval an Employee Training Plan for Hazardous Waste Management to include, at a minimum, a list identifying all employee job descriptions with hazardous waste management responsibilities and any training necessary to ensure employees with those job descriptions are thoroughly familiar with proper waste handling and emergency procedures pursuant to 40 CFR 262.34(d)(5)(iii).